

# Frequently Asked Questions about the Homeowner Tax Credit Program

## The Review Process

### How long will it take MHT to process my application?

**Answer:** Applications are handled on a first-come, first-served basis. MHT's review period may be longer or shorter, depending on the volume of tax credit applications and the number of staff available to perform the reviews. Additionally, application review times may vary based upon the complexity of the project and the completeness and clarity of the application. From time to time, MHT will post special announcements on the Tax Credit webpage advising applicants of the current review period. MHT will contact you if there are questions about your application or if you will be required to provide additional information. If you wish to confirm that MHT has received your application, MHT recommends that you use a courier that tracks its packages to submit your application or submit your application by USPS Certified Mail/Return Receipt Requested.

### Is there a fee for reviewing my application?

**Answer:** There is no fee for the review of Part 1 Applications. A \$10 processing fee in the form of a personal check must accompany all Part 2 Applications. The fee for certification of a Part 3 Application is 3% of the amount of the tax credit (20% of the greater of the estimated or final qualified expenditures) for the rehabilitation project less the initial \$10 processing fee submitted with the Part 2 Application. The final fee payment is payable only by personal check to the Maryland Historical Trust.

### Can I begin the rehabilitation even though I have not submitted an application or received certification of the structure or my rehabilitation plans?

**Answer:** No. You must wait to begin the work until your rehabilitation plans have been approved by MHT and your Part 2 Application has been certified.

### Last year, I completed a rehabilitation project but only recently heard about the State tax credit program. Can I still apply for the credit?

**Answer:** Unfortunately, no. Completed projects cannot be accepted. This is because qualified rehabilitation expenditures are only those incurred AFTER the Part 2 Application is certified by MHT.

### My local historic preservation commission has already approved my rehabilitation project and I'm anxious to get started. Do I also need MHT's approval to begin the work?

**Answer:** Absolutely. MHT must review all applications for tax credits. Neither local nor federal agencies oversee the state tax credit program. MHT is the only government agency charged with administration of the state tax credit program and is solely responsible for certifying that structures are certified heritage structures and that rehabilitation plans and completed projects meet the Secretary of the Interior's *Standards for Rehabilitation*.

**I just received a letter from the MHT which states that my application was denied because aspects of my proposed project did not meet the Secretary of the Interior's *Standards for Rehabilitation*. I have contacted historic preservation professionals from both my local government and the federal government to better understand how the *Standards* are interpreted in practice. It would appear that there are some differences in how each government representative interprets the *Standards* and MHT's interpretation. Why aren't the *Standards* interpreted uniformly regardless of which agency applies them?**

**Answer:** The MHT cannot speak to the way in which preservation professionals from other governments interpret the Standards; however, for the last 30 plus years, the MHT has consistently applied the Standards in a conservative manner. Applicants are informed of this approach in the Part 2 section of the Application Instructions. In the event that there is a difference in the way the MHT and any other government agency interprets the Standards, the MHT's interpretation will be final for the purposes of the state tax credit program.

**The last application that I submitted to MHT for tax credits was denied at the Part 3 for completed work that was inconsistent with the *Standards*. It has now been over a year since the denial, and I would like to re-apply to the tax credit program for new work. Can I re-apply even though my previous Part 3 application was denied?**

**Answer:** Perhaps. This depends upon what the start date was for the work that was included in the previously denied Part 3 application. The tax credit program is set up in 24 month intervals; therefore, the start date for any work proposed in a new Part 2 application must exceed 24 months from the start date stated in the previously denied Part 3 application.

**I submitted a Part 2 application to the tax credit program last year; however, the Part 2 was denied for the proposed work not meeting the *Standards*. Can I re-apply now with a new Part 2 for additional proposed work to my property?**

**Answer:** It depends. Yes, but you must provide MHT proof that you have not done any of the work that was denied in the previous Part 2 in the interim. If you have undertaken any of the proposed work that was denied in the Part 2 application, then you must contact MHT staff for guidance on how to proceed.

**It has been a year since the Part 2 of my homeowner tax credit application was approved for a proposed project estimated to cost \$250 thousand. I have since completed the work described in the Part 2 application, of which the total eligible project costs have amounted to \$250 thousand. Even though that phase of the project is finished, I still have more work to do. Can I submit another Part 2 application for the additional work to be completed this year?**

**Answer:** No. The statute for the tax credit program limits the amount of eligible rehabilitation costs for homeowner projects to \$250 thousand in any one 24-month period.

In other words, a project cannot be awarded more than \$50 thousand in tax credits within a contiguous two-year period.

### **If the rehabilitation work described in my Part 2 Tax Credit Application is for the exterior only, why do I need to submit photographs of the interior of my property?**

**Answer:** These photographs establish a baseline record of the entire property at the time of the tax credit application submittal. They will be used for the purpose of reviewing the proposed project and to assist the MHT in tracking changes that may not have been identified in the Part 2 Application. Alterations that do not meet the Secretary of the Interior's *Standards for Rehabilitation* and were not included in the Part 2 Application, may result in a denial of the entire application. Alterations that do not meet the *Standards* and are completed within the first 5 years after the tax credits are awarded may result in the recapture of all or a portion of previously awarded credits. If thorough photographic documentation of the property prior to rehabilitation is not available, review and evaluation of the Part 2 Application cannot be completed and may result in a denial.

### **How is the review of my application impacted by other relevant or applicable laws?**

**Answer:** The property owner(s) is/are responsible for complying with all Federal, state, and local laws applicable to the project. This responsibility may include, but is not limited to, compliance with local zoning, building, and life safety codes, review by local historic preservation commissions, and federal and state licensing, permitting, and environmental requirements.

## **Eligibility for the Credit**

### **How do I find out if my property is eligible?**

**Answer:** Your property is eligible if it is listed in the National Register of Historic Places or if it is a contributing structure within a National Register historic district. (All properties require the certification of a Part 1 Application except those listed individually in the National Register.) Your property also may be eligible if it has been designated locally as historic by your city or county. Local designations **must** meet National Register standards of eligibility **as determined by the MHT**. MHT's website lists all National Register properties and districts in Maryland. Maps are available for most, which you can use to complete Part 1 of the application. You may contact MHT at 410-514-7628 if the National Register map of your district is not available online. County governments and municipalities maintain lists of locally designated historic properties. Contact your local planning office for information.

### **How do I find out if my property contributes to the significance of a National Register or local historic district?**

**Answer:** This is the purpose of Part 1, "Certification of Significance." Nomination forms for both the National Register and local historic landmark lists may identify contributing properties within the district boundaries. Look online or contact MHT's Office of Research, Survey and Registration at 410-514-7644 or your local planning office, as appropriate, to request historic district documentation. **Whether a structure contributes to the significance of a historic district ultimately is determined by MHT based on all available documentation.**

**I am working on getting my property designated, but want to get started on the rehabilitation project now. Can I submit Parts 1 and 2 before my property is officially designated?**

**Answer:** The tax credit program statute requires that the structure be officially designated, either by the local government or the National Register, by the end of the calendar year in which the rehabilitation project was completed. Failure to receive this designation by the required deadline will result in the rehabilitation being ineligible for the tax credit. You may apply for the tax credit once designation has been applied for and sufficient documentation can be provided that a complete application for designation has been submitted.

**My house is owned by a Personal Residence Trust or a Qualified Personal Residence Trust. Can I still apply using the Homeowner Application?**

**Answer:** Yes, but a beneficiary of the trust must also be an occupant of the residence.

**My house is owned by an LLC (Limited Liability Company). Can I still apply using the Homeowner Application?**

**Answer:** No. Houses owned by LLCs, LLPs (limited liability partnerships), or LLLPs (limited liability limited partnerships) are not owner-occupied residences and therefore the owner may not submit a Homeowner Application. You must apply using the Commercial Application, or, if the property is depreciable, you may apply for the Federal Program.

**I own a condominium in a historic building and it is my personal residence. Is my rehabilitation eligible?**

**Answer:** Yes, but only qualified rehabilitation expenditures for rehabilitation of the interior are eligible.

**What if I own my personal residence, a *portion* of which is also income-producing? Can I still apply for the Homeowner tax credit?**

**Answer:** Yes. If the owner is proposing work for the interior of the owner-occupied residential portion of the structure and/or the exterior envelope of the structure, he/she is eligible to apply for tax credits. Infrastructure elements such as HVAC, plumbing, electrical, etc. would be prorated.

**For mixed-use properties (owner-occupied combined with income-producing), how should I interpret my eligible costs and expenses?**

**Answer:** As mentioned in the answer above, only those costs associated with the rehabilitation of the owner-occupied residential portion of the structure and/or the exterior envelope of the structure, along with systems such as HVAC, plumbing, electrical, etc., are eligible. Applicants are required to submit with the Part 3 Application a detailed itemized spreadsheet that shows the breakdown of these expenses and what work items pertain to each within the structure.

## Questions about Qualifying Rehabilitation Work

**I understand that work must be undertaken within a 24 month period. When does that start?**

**Answer:** The 24-month period may start when eligible pre-construction costs related to the rehabilitation project are incurred. This could include certain fees as described below. If there are no pre-construction costs, the 24 month period starts when actual construction work begins after MHT certifies the Part 2 Application.

**Are architectural fees eligible?**

**Answer:** Yes. Architectural, engineering, and similar consultant fees, including tax credit consultant fees, are eligible. Expenses incurred in order to prepare the application (such as architect's or engineer's fees) are the only costs incurred prior to Part 2 certification that are eligible; however, in order for these fees to be included in the total rehabilitation costs, they must have been incurred during the 24-month period as described above.

**Are the costs associated with a building energy audit inspection eligible?**

**Answer:** No. These costs are not eligible.

**What about acquisition costs, financing charges, and building permit fees?**

**Answer:** No. These costs are not eligible.

**Are plumbing, HVAC, and electrical systems costs eligible?**

**Answer:** Yes.

**Are landscaping and site work costs eligible?**

**Answer:** The costs associated with the restoration of significant historic landscape features, such as parterre gardens, walls, or garden walks, may be eligible when there is adequate documentation of the feature's historic significance. Costs for all other landscaping features, such as driveways and retaining walls, are not eligible.

**I want to rehabilitate my kitchen and bathrooms but I'm concerned that these expenses do not qualify and will be considered "remodeling only." Can you provide guidance?**

**Answer:** Amendments to the Heritage Structure Rehabilitation Tax Credit Program regulations adopted by the Maryland Historical Trust in February 2005 clarify the definition of "rehabilitation."

"'Rehabilitation' means the process of returning a structure to a state of utility, through repair or alteration, which makes possible an efficient use while preserving those portions and features of the structure and its site and environment which make the structure and its site and environment historically, architecturally, or culturally significant. 'Rehabilitation' does not include an alteration which is primarily remodeling."

The rehabilitation of existing bathrooms and kitchens in good repair with no or few defects is likely to be determined to be remodeling and the costs are thus not eligible for the credit. As noted above, the overall purpose of the Heritage Structure Rehabilitation Tax Credit Program is to “return a structure to a state of utility.” Many bathroom and kitchen replacement projects include no work that would be considered rehabilitation.

Projects described in a proposed plan of rehabilitation submitted with the Part 2 Application and determined by MHT to be primarily remodeling will not qualify for the tax credit program. Projects that include appropriate rehabilitation of deteriorated spaces and spaces that function but have reached the end of their useful life, including kitchens and bathrooms, will continue to be considered rehabilitation work and eligible for the program. Eligibility will be determined as part of the Part 2 Application review.

### **Are additions, new patios, new back decks, new roof decks, or similar new construction eligible?**

**Answer:** No. The costs for new construction do not qualify.

### **Are rehabilitation costs for barns, garages, and other outbuildings eligible?**

**Answer:** If these structures are historically associated with the residence and contribute to the significance of the property, are not used for any type of commercial use, and have not been fully depreciated, the rehabilitation costs may qualify. Non-historic separate structures are not eligible.

### **I have a family room that was added to the house in the 1980's and needs to be rehabilitated. Do these costs qualify?**

**Answer:** Yes. Additions to heritage structures are considered part of the overall structure, even though they do not have historic significance. Changes to these additions must still conform to the Standards.

### **Are interior finishes eligible?**

**Answer:** Interior capital expenditures are eligible for the credit. For the interior, this usually means finishes that become part of the structure. Eligible costs may include repair or restoration of wainscoting, mantels, interior shutters, molding, floors, plaster, and paint. Kitchen cabinets may also be eligible as part of the rehabilitation. **Items that are not eligible include, but are not limited to, kitchen appliances, washers, dryers, carpet, drapery, pictures, and furniture.** Consult MHT staff for a final determination of eligibility.

### **My historic house had vinyl siding installed by a previous owner. If I am not planning to remove it as part of my rehabilitation project, will my project still be eligible for tax credits?**

**Answer:** Yes. MHT will not require owners to replace vinyl or aluminum siding installed by a previous owner with a more appropriate treatment if there is no work planned for this feature.

**If the house is damaged and I am reimbursed by my insurance company to pay for the repairs/restoration, can I include those expenses in my Total Qualified Rehabilitation Expenditures on Part 3 and claim a credit for them?**

**Answer:** No. Expenses reimbursed by an insurance company cannot be claimed. These costs must be subtracted from the total qualified rehabilitation expenditures on the Part 3 Application and must be documented in the Itemized Expense Spreadsheet submitted with the Part 3.

**If I will be receiving additional funding to help with the rehabilitation of my property from any State or local government agencies, such as grants, loans, or energy tax credits, can I claim these expenses as well toward the credit?**

**Answer:** No. Additional funding such as grants, loans, or tax credits from a State agency or local government are not eligible and must be subtracted from the total qualified rehabilitation expenditures on the Part 3 Application. This must be documented on the Itemized Expense spreadsheet that is required to be submitted with the Part 3 Application.

**What if I am receiving additional funding from a Federal agency, such as a Federal energy tax credit, do I need to back these costs out of the final rehabilitation expenditure total on the Part 3 as well?**

**Answer:** No. Additional funding from a Federal agency that pertains to the rehab of your property does not have to be subtracted from the Part 3 Application.

## **Questions about Part 3**

**I decided not to undertake some of the work described in the Part 2 Application. What should I do before submitting the Part 3 Application?**

**Answer:** You should include an Amendment Sheet with the Part 3 Application stating what work you did not undertake. If you wish to undertake that work in the future, you must file a new Part 2 Application describing the work and include additional photographs.

**Should I submit receipts with the Part 3 Application?**

**Answer:** Yes. Please submit copies of the receipts for the work undertaken and a list of the costs incurred showing how you calculated your qualified rehabilitation expenditures. The application contains a sample spreadsheet that shows how your receipts/expenses/invoices must be broken down and itemized for the purposes of the tax credit program. This itemized spreadsheet must be submitted with your Part 3 Application.

## **Claiming the Credit**

**Is the credit fully refundable? Do I just get a check back?**

**Answer:** To the extent the credit exceeds the taxpayer's tax liability, the credit is refundable. You must file for the credit with the Comptroller of Maryland in the tax year in



which the project was completed. Use Maryland Form 502S specific to the year in which you are filing. The certified Part 3 Application must be attached to Form 502S.

### **Can a non-resident of Maryland claim the credit/refund?**

**Answer:** Yes. The program has no restrictions on residency. However, remember that the structure must still be the taxpayer's owner-occupied, single-family residence. It may not be depreciable or rented.

### **Do I have to pay federal income taxes on the refund the following year?**

**Answer:** Possibly. The IRS considers the State income tax refund to be taxable income.

## **Recapture Rule**

**I received tax credits for a rehabilitation project certified by MHT one year ago. If I plan to do additional work on the same structure this year that will not conform to the Secretary's Standards, do I risk losing my previous credit?**

**Answer:** Yes. If disqualifying work is undertaken on a property that has received tax credits, the credits will be recaptured. If the disqualifying work is performed during the year in which the rehabilitation was completed, 100% of the credit will be recaptured; if during the first full year after the rehabilitation was completed, 80% will be recaptured; if during the second full year, 60% will be recaptured; if during the third full year, 40% will be recaptured; and after the fourth full year, 20% will be recaptured. After five years the credit is not subject to recapture.